

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Robertson, Anschutz & Schneid, P.L. 6409 Congress Ave., Suite 100 Boca Raton, FL 33487 Telephone Number 561-241-6901 Attorneys for Secured Creditor Laura Egerman, Esq. (LE-8250)	CASE NO.: 16-32586-VFP CHAPTER 11
In Re: James Walter Lucas and Barbara Jean Lucas, Debtors.	

**OBJECTION TO CONFIRMATION OF FIFTH AMENDED CHAPTER 11 PLAN OF
JAMES WALTER LUCAS AND BARBARA JEAN LUCAS**

THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS SUCCESSOR TRUSTEE FOR JPMORGAN CHASE BANK, N.A., AS TRUSTEE FOR THE BENEFIT OF THE CERTIFICATEHOLDERS OF POPULAR ABS, INC. MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-C ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Fifth Amended Chapter 11 Plan of James Walters Lucas and Barbara Jean Lucas (DE #118), and states as follows:

1. Debtors James Walter Lucas and Barbara Jean Lucas, ("Debtors"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on November 28, 2016.
2. An Order Granting Motion to Convert Case to Chapter 11 (DE #51) was entered on June 9, 2017.
3. Secured Creditor holds a security interest in the Debtors' real property located at 298-300 CLINTON PL., NEWARK, NEW JERSEY 07112.
4. Secured Creditor timely filed a Proof of Claim, Claim 12, on October 17, 2017, which sets forth a total indebtedness of \$272,783.77.

5. The Plan proposes to satisfy Secured Creditor's claim by paying \$91,000.00. Secured Creditor disputes this valuation. Until a final determination on valuation occurs, it would be premature to consider confirming Debtors' Plan.
6. The Plan proposes to pay only 5%, which is inadequate to assure that property distributed to Secured Creditor under the plan will have a value, as of the effective date of the plan that is not less than the allowed amount of such claim.
7. In *Till v. SCS Credit Corp.*, 541 U.S. 465, 124 S.Ct. 1951(2004), the U.S. Supreme Court addressed the appropriate cram down interest rate under 11 U.S.C. § 1325(a)(5)(B)(ii). *Till* adopts the "formula approach," which looks to the national prime rate, as reported daily in the press, and adds an appropriate "risk adjustment." Although *Till* does not specify what the risk adjustment should be, it states that courts generally approve adjustments of 1-3%. Accordingly, Secured Creditor maintains that, lacking evidence to the contrary, a risk adjustment of 2% is reasonable.
8. The prime rate, as published in the Wall Street Journal, is currently 5.5%. Accordingly, Secured Creditor maintains the Court should not approve a cram down interest rate less than 7.5%.
9. The Plan fails to provide for maintenance of property insurance and timely payment of property taxes. The Plan should specify whether Debtors intend to maintain property insurance and tax payments himself, or if the account will be escrowed for taxes and/or insurance.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

Robertson, Anschutz & Schneid, P.L.
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By: /s/Laura Egerman
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CERTIFICATION OF SERVICE

1. I, Laura Egerman, represent THE BANK OF NEW YORK MELLON F/K/A THE BANK OF NEW YORK AS SUCCESSOR TRUSTEE FOR JPMORGAN CHASE BANK, N.A., AS TRUSTEE FOR THE BENEFIT OF THE CERTIFICATEHOLDERS OF POPULAR ABS, INC. MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-C in this matter.
2. On January 17, 2019 I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below: *Objection to Confirmation of Fifth Amended Chapter 11 Plan of James Walter Lucas and Barbara Jean Lucas.*
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

January 17, 2019

Robertson, Anschutz & Schneid, P.L.
Attorney for Secured Creditor
6409 Congress Ave., Suite 100
Boca Raton, FL 33487
Telephone Number 561-241-6901

By: /s/ Laura Egerman
Laura Egerman, Esquire
NJ Bar Number LE-8250
Email: legerman@rasnj.com

<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Law Offices of Scott J. Goldstein, LLC 280 West Main Street Denville, NJ 07834	Attorney for Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)
James Walter Lucas 414 South Broad St Ridgewood, NJ 07450 Barbara Jean Lucas 414 South Broad St Ridgewood, NJ 07450	Debtors	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)
U.S. Trustee Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other (as authorized by the court*)